IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14930 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

VINODRAI MAVJIBHAI JOTANGIYA - Petitioner(s)

Versus

CHIEF ADMINISTRATIVE OFFICER & 1 – Respondent(s)

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Appearance :

MR MP SHAH for Petitioner(s) : 1,MS. KRUTI M SHAH for Petitioner(s) : 1,
MR HS MUNSHAW for Respondent(s) : 1,
SERVED BY RPAD - (N) for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 03/03/2006

ORAL JUDGMENT

1. Though the facts of the case are long drawn, the controversy involved in the matter for consideration of this Court is only as to whether order dated 14th July

2005 – Annexure – H could have been passed by the authorities without granting an opportunity of hearing to the petitioner, causing gross violation of principles of natural justice?

2. Heard Ms.Kruti M.Shah, the learned advocate appearing for the petitioner at length and also Mr.H.S.Munshaw, the learned advocate appearing for the respondents on the point.

Mr.Munshaw could not convince this Court that there is no violation of principles of natural justice because he could not point out from the record that the petitioner was heard before passing of the impugned order. Mr.Munshaw fairly submitted to the Court that respondent No.1 must observe the principles of natural justice and must grant an opportunity of hearing to the petitioner and should observe the rules in letter and spirit.

In view of that, without going into other aspects of the matter, the petition is decided only on this short point of non-observance of principles of natural justice.

3. Respondent No.1 is directed to afford an opportunity

of hearing to the petitioner and after extending the opportunity of hearing to the petitioner, shall pass a fresh order in place of order dated 14th July 2005. As the order dated 14th July 2005 is passed in violation of principles of natural justice, the same is hereby quashed. However, its effect is not ordered to be withdrawn. After a fresh order is passed and after judicial scrutiny of the same, necessary orders will be passed. This will avoid the exercise of 'putting the clock back' twice.

4. The respondent No.1 is directed to consider the representation, which the petitioner may file on or before 23rd March 2006. The petitioner may annex a copy of this petition alongwith its annexures to the representation. Respondent No.1 shall consider the same in accordance with law and pass a fresh order on or before 10th April 2006.

In the event respondent No.1 decides to vary order dated 14th July 2005, consequential benefits should also be calculated and be paid to the petitioner on or before 30th April 2006.

With the aforesaid directions, the petition is

allowed. Rule is made absolute with no order as to costs.

(RAVI R.TRIPATHI, J.)

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